

FILED

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CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY
DEPUTY CLERK

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6 Plaintiff, Pro se

7 **UNITED STATES DISTRICT COURT**
8 **EASTERN DISTRICT OF CALIFORNIA**

9 TERRENCE BREWER,

10 Plaintiff,

11 vs.

12 CALIFORNIA STATE BAR; BOARD OF
13 TRUSTEES; COMMITTEE OF BAR
14 EXAMINERS; and THEIR AGENTS IN THEIR
15 OFFICIAL CAPACITY; and DOES 1 through 50,
16 inclusive

17 Defendants.

) **Case No. 2:23-CV-00860-TLN-JDP**
)
) **FIRST AMENDED COMPLAINT**
) **FOR ADA, UNRUH,**
) **VIOLATIONS; INJUNCTIVE**
) **RELIEF**

18 **FIRST AMENDED COMPLAINT**

19 Pursuant to FRCP 15(a)(1), prior to trial, each party has the right to amend a pleading once
20 “as a matter of course” within: (A) 21 days after the pleading was served (if the pleading is one to
21 which no response is due); or (B) if the pleading is one to which a responsive pleading is required
22 (complaint, counterclaim, crossclaim, etc.), within 21 days after service of a responsive pleading or
23 motion under Rule 12(b),(e) or (f), whichever is earlier.

24 Plaintiffs can amend their complaint once without leave of court before defendant's
25 answer, demurrer or motion to strike is filed. (CCP § 472; see *Woo v. Sup.Ct. (Zarabi)* (1999) 75
26 CA4th 169, 175, 89 CR2d 20, 24). “Moreover, if defendant files a demurrer or motion to strike,
27 plaintiff has a right to amend the complaint without leave of court up to the date for filing an
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1 opposition to the demurrer or motion to strike. Plaintiff may amend the complaint after the date for
2 filing an opposition to the demurrer or motion to strike upon stipulation of the parties.”

3 Plaintiff has yet to serve any Defendants in this case and consequently, no responsive
4 pleadings have been filed and/or served. Thus, Plaintiff is entitled to amend his complaint without
5 leave of court, as a matter of law, and now submits his First Amended Complaint as a matter of
6 right.

7 8 INTRODUCTION

9 Plaintiff alleges:

10
11 TERRENCE BREWER, acting in Pro Se, brings this action for violations of the Americans
12 with Disabilities Act, 42 U.S.C. § 12131 et seq., as amended by the Americans with Disabilities
13 Amendments Act (ADAA) in 2008, Title II’s implementing regulation, 28 C.F.R. Part 35, § 504 of
14 the Rehabilitation Act, 29 U.S.C. §794, California Government Code §§ 11135 et seq. and 12944
15 et seq., and California’s Unruh Act, Cal. Civ. Code § 51(f).

16 Plaintiff seeks compensatory damages according to proof, and injunctive relief that shall
17 order: 1) Defendants to grant Plaintiff a provisional bar license; 2) Defendants to re-evaluate
18 Plaintiff’s February 2023 Bar Exam answers; 3) Defendants to fully disclose to Plaintiff all
19 relevant records Defendants used in determining the final scores for Plaintiff’s essay and
20 performance test answers for the February 2023 Bar Exam; and 4) the U.S. Attorney General to
21 thoroughly investigate the claims alleged by Plaintiff pursuant to 42 U.S.C. §12188 and provide a
22 detailed report and recommendations of their findings.

23 The facts alleged herein are not unique to this Plaintiff, but another example of
24 Defendant’s pattern and practice of discriminating against disabled and/or minority applicants, as
25 evidenced in other filed cases and complaints. (See *Kohn v. State Bar of California* (N.D. Cal.
26 2020) 497 F.Supp.3d 526).

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GENERAL ALLEGATIONS

1
2 1. Plaintiff is a disabled veteran with a disability rating of 100 percent from the U.S.
3 Department of Veteran Affairs, who has been, and at all times relevant hereto was, a resident of
4 the County of Contra Costa, State of California.

5 2. Defendant State Bar of California ("STATE BAR") is, and at all times herein
6 mentioned was, a State governmental entity subject to Americans with Disabilities Act, 42 U.S.C.
7 § 12131 et seq., as amended by the Americans with Disabilities Amendments Act (ADAA) in
8 2008, Title II's implementing regulation, 28 C.F.R. Part 35, § 504 of the Rehabilitation Act, 29
9 U.S.C. § 794, California Government Code §§ 11135 et seq. and 12944 et seq., and California's
10 Unruh Act, Cal. Civ. Code § 51(f). At all times herein mentioned, defendant STATE BAR is the
11 regulatory body of the legal profession in the State of California engaged in the business of
12 granting licenses to practice law in the State of California, among other activities, commonly
13 known and designated as CalBar, situated in the city and county of San Francisco, California.

14 3. Defendant The Committee of Bar Examiners ("COMMITTEE") is, and at all times
15 herein mentioned was, a State governmental entity subject to Americans with Disabilities Act, 42
16 U.S.C. § 12131 et seq., as amended by the Americans with Disabilities Amendments Act (ADAA)
17 in 2008, Title II's implementing regulation, 28 C.F.R. Part 35, § 504 of the Rehabilitation Act, 29
18 U.S.C. § 794, California Government Code §§ 11135 et seq. and 12944 et seq., and California's
19 Unruh Act, Cal. Civ. Code § 51(f). The COMMITTEE is responsible for administering the
20 California Bar Exam, by and through the actions of their agents.

21 4. The Defendants are "programs or activities" as defined by 29 U.S.C. § 794, since
22 they are governmental agencies which benefit from federal funding, and are therefore bound by
23 the ADA to provide reasonable testing accommodations to disabled people. Also see 28 C.F.R.
24 Part 35.

25 5. The true names and capacities, whether individual, corporate, associate or
26 otherwise, of the Defendants sued herein as DOES 1 through 50 are unknown to Plaintiff, who
27 therefore sues said Defendants by such fictitious names. DOES 1 through 50 were at all relevant
28

1 times the officers, directors and/or managing agents of all other defendants. Plaintiff will seek
2 leave of court to amend this complaint to allege the true names and capacities of DOES 1 through
3 50 when ascertained, if necessary. The use of the term "Defendants" in this Complaint intends to
4 refer to Defendant EXPERIAN and all DOE Defendants in this action.

5 6 **VENUE AND JURISDICTION**

7 6. Plaintiff realleges and incorporates by reference each and every allegation of
8 paragraphs 1 thru 5 of this Complaint, inclusive, as if fully set forth here.

9 7. This Court has subject matter jurisdiction over this matter under 28 U.S.C. § 1331,
10 the Americans with Disabilities Act, 42 U.S.C. §12131 et seq., Title II's implementing regulation,
11 28 C.F.R. Part 35, and §504 of the Rehabilitation Act, 29 U.S.C. §794, as well as supplemental
12 jurisdiction under 28 U.S.C. § 1337(a) over any state law claims including those related to Cal.
13 Gov. Code §§ 11135 et seq. and 12944 et seq. Cal. Civ. Code § 51(f).

14 8. This Court has personal jurisdiction over Defendants, their main office being
15 located in the Northern District of California, address 180 Howard Street, San Francisco, CA
16 94105, and due to their substantial activities throughout California.

17 9. Venue properly lies in this district pursuant to 28 U.S.C. § 1391(b)(1), (b)(2), and
18 (c) as Defendants conduct business in the County of Sacramento, California; and the acts and
19 omissions which make up the basis for Plaintiffs' claims in this complaint all took place in the
20 City and County of Sacramento, California by all Defendants.

21 22 **FACTUAL ALLEGATIONS**

23 10. Plaintiff realleges and incorporates by reference each and every allegation of
24 paragraphs 1 thru 9 of this Complaint, inclusive, as if fully set forth here.

25 11. Plaintiff is a disabled veteran with a disability rating of 100 percent from the U.S.
26 Department of Veteran Affairs.

27 12. Plaintiff solely drafted this complaint without the aid or advice of any licensed
28 attorney.

1 13. On or around November 2020, Plaintiff timely applied for the July 2021 California
2 Bar Exam and requested testing accommodations for the writing section. However, Plaintiff did
3 not request testing accommodations for the Multistate Bar Exam (“MBE”) section of the
4 California Bar Exam.

5 14. On July 2, 2021, which is exactly one day after the deadline for Plaintiff to file an
6 appeal to an accommodations decision by the COMMITTEE, and the STATE BAR (collectively
7 referred herein as “DEFENDANTS”) summarily denied Plaintiff’s request for accommodations
8 without explanation.

9 15. On or around July 3, 2021, Plaintiff appealed the DEFENDANT’s decision several
10 times resulting in the same outcome. Simultaneously, Plaintiff filed a complaint with the Civil
11 Rights Division of the US Department of Justice (“DOJ”) and petitioned his State
12 assemblymember’s office (“REPRESENTATIVE”) to investigate whether DEFENDANTS had
13 violated Plaintiff’s civil rights and discriminated against him based on his disability status.

14 16. On or around July 19, 2021, after being in contact with the DOJ and
15 REPRESENTATIVE regarding Plaintiff’s complaint, DEFENDANT reluctantly granted partial,
16 minimalistic and inadequate accommodations, some of which Plaintiff did not request nor did they
17 aid him, while unjustly denying other material accommodations that are outcome determinative.
18 Plaintiff subsequently wrote a letter addressed to the DEFENDANT for their handling of this
19 matter.

20 17. On or around November 2021, DEFENDANT handed down a bar exam score five
21 (5) points below passing. Subsequently, Plaintiff retained counsel to assist in challenging the
22 scores on the basis that his essay answers were virtually identical to the selected answers the
23 DEFENDANT posted on their website and requested the DEFENDANT provide documentation
24 supporting the validity of the scores.

25 18. The DEFENDANT summarily denied Plaintiff’s request for reconsideration stating
26 that Plaintiff was, “...*substituting your own judgment for that of the Committee’s professional*
27 *graders. The Committee’s grading policy does not permit requests for reconsideration based upon*
28 *a challenge to its grading system or the judgments of its professional graders.*” And that, “...only

1 *when an applicant established with documented evidence that a clerical error prevented the*
2 *examination from being properly graded. Your request does not meet the criteria for*
3 *reconsideration as you have not established a clerical error of the type meriting reconsideration*
4 *under the Committee's policy."*

5 19. On or around July 2022, Plaintiff applied and sat for the July 2022 Bar Exam. The
6 DEFENDANT granted the same partial, minimalistic and inadequate accommodations, some of
7 which Plaintiff did not request nor did they aid him, while unjustly denying other material
8 accommodations that are outcome determinative. On or around November 2022, DEFENDANT
9 handed down a failing score for the July 2022 Bar Exam.

10 20. On or around February 2023, Plaintiff applied and sat for the February 2023 Bar
11 Exam. The DEFENDANT granted the same partial, minimalistic and inadequate accommodations,
12 some of which Plaintiff did not request nor did they aid him, while unjustly denying other material
13 accommodations that are outcome determinative.

14 21. Plaintiff subsequently hired an expert tutor ("TUTOR") employed by BarBri – one
15 of the most reputable bar prep companies in the U.S. with a proven track record of dramatically
16 improving bar applicant's bar exam scores and greatly increasing the probability of the applicant
17 being successful on the exam – ("BARBRI") solely to assist in improving his essay and
18 performance test ("PT") scores for the upcoming February 2023 Bar Exam.

19 22. The TUTOR advised Plaintiff how to write an "above passing" essay and PT,
20 which Plaintiff precisely implemented said advice to the February 2023 Bar Exam.

21 23. On May 5, 2023, DEFENDANT handed down a failing score, yet again. Plaintiff's
22 essay and PT scores remained below passing, while his MBE score was near perfect – scoring in
23 the top 87th percentile – meaning, Plaintiff performed better than 87 percent of all examinees
24 taking the same exam nationwide. Alternatively, this ranking means only 13 percent of all
25 examinees nationwide performed better than Plaintiff.

26 24. According to the National Committee of Bar Examiners ("NCBE"), the entity that
27 develops and administers the MBE, Plaintiff's MBE scores were between 145 and 150. Meaning,
28 Plaintiff achieved a passing MBE score for all U.S. jurisdictions.

1 25. The MBE is the second half of the California Bar Exam which is a test that is not
2 susceptible to subjective biases like the writing section of the Bar Exam, and is objectively and
3 electronically graded by a separate independent entity, the NCBE.

4 26. On or around May 9, 2023, Plaintiff submitted a request for reconsideration of
5 grade for the February 2023 exam to the DEFENDANT.

6 27. On or around May 18, 2023, the DEFENDANT summarily denied Plaintiff's
7 request for reconsideration stating that Plaintiff was, "...*substituting your own judgment for that of*
8 *the Committee's professional graders. The Committee's grading policy does not permit requests*
9 *for reconsideration based upon a challenge to its grading system or the judgments of its*
10 *professional graders.*" And that, "...***only when an applicant established with documented***
11 ***evidence that a clerical error prevented the examination from being properly graded. Your***
12 ***request does not meet the criteria for reconsideration as you have not established a clerical error***
13 ***of the type meriting reconsideration under the Committee's policy.*"**

14 28. The DEFENDANT did not, and continues to refuse to elaborate or clearly state
15 what documented evidence of a clerical error is required for Plaintiff to submit that would have
16 prevented the examination from being properly graded.

17 29. On or around May 19, 2023, Plaintiff submitted a renewed request for
18 reconsideration of grade citing that he previously requested documentation from the
19 DEFENDANT that would suggest whether DEFENDANT made a clerical or arithmetical error,
20 records that only the DEFENDANT possesses, has custody of, and/or controls.

21 30. Plaintiff attached documentation published on DEFENDANT'S website and an
22 article written by Judith A. Gundersen ("GUNDERSEN"), published on NCBE's website, that
23 both suggest that the STATE BAR must have made a clerical and/or arithmetical error.

24 31. GUNDERSEN is the Director of Test Operations for the National Conference of
25 Bar Examiners. Among her responsibilities, she is program director for the Multistate Essay
26 Examination and the Multistate Performance Test. Gundersen received her J.D. from the
27 University of Wisconsin Law School.

28 32. The website of the DEFENDANT states, in pertinent part: "*However, there is a*

1 *strong underlying relationship between written and MBE scores. As a result of this relationship,*
 2 *an increase or decrease in average MBE scores between administrations signals a corresponding*
 3 *change in average applicant ability. Because of this relationship and the equating process, MBE*
 4 *“scale” scores provide the best way to monitor differences in average applicant ability across*
 5 *administrations of the examination. Scaling written scores to the MBE subsequently results in*
 6 *having a given written scale score indicate about the same level of proficiency regardless of the*
 7 *examination on which that written scale score was earned.”*

8 33. The DEFENDANT further admits that in order to be successful on the writing
 9 section of the Bar Exam, an applicant must only satisfy the following requirements: *“answers are*
 10 *expected to demonstrate the applicant’s ability to analyze the facts in the question, to tell the*
 11 *difference between material facts and immaterial facts, and to discern the points of law and fact*
 12 *upon which the case turns. The answer must show knowledge and understanding of the pertinent*
 13 *principles and theories of law, their qualifications and limitations, and their relationships to each*
 14 *other. The answer should evidence the applicant’s ability to apply the law to the given facts and to*
 15 *reason in a logical, lawyer-like manner from the premises adopted to a sound conclusion. An*
 16 *applicant should not merely show that they remember the legal principles but should demonstrate*
 17 *their proficiency in using and applying them.”* Plaintiff contends his written answers for the
 18 February 2023 Bar Exam objectively satisfy all of the above requirements.

19 34. GUNDERSEN states, in pertinent part, *“Scaling written scores to the MBE is a*
 20 *psychometrically valid practice because examinee performance on the MBE is strongly correlated*
 21 *to examinee performance on the combined MEE [Multistate Essay Exam] and MPT [Multistate*
 22 *Performance Test]. Because the MBE is an equated exam, MBE scores have constant meaning*
 23 *across time and across jurisdictions, even though the items on particular exams may vary slightly*
 24 *in intrinsic difficulty.”*

25 35. GUNDERSEN further states, *“Scaling to the MBE lines up an examinee’s overall*
 26 *written score to a statistically accurate corresponding point on the MBE score distribution.*
 27 *Scaling standardizes rank--ordering decisions across time and exams. Additionally,*
 28 GUNDERSEN states that *“All MEE and MPT items are drafted, reviewed, edited, and pretested*

1 *[as is the case for the writing section on the California Bar Exam] to ensure that graders will be*
2 *able to spread examinee scores according to relative quality if they follow grading instructions*
3 *properly.” GUNDERSEN concludes by noting that “No examinee has to write a perfect paper to*
4 *get the highest score...”*

5 36. Plaintiff submitted several lawful requests for public records pursuant to Gov. Code
6 §§ 7920.00 et seq. seeking records pertaining to the administration and grading of Plaintiff’s
7 previous Bar Exams, emphasizing that Plaintiff was not seeking records exempt from disclosure
8 under Senate Bill 387; Bus. & Prof. Code §§ 6086.1(b); 6060.2; 6168; 6232(d); 6234(a); 6200(h);
9 6060.25; and/or Gov. Code §§ 7923.600; 7929.605; 7923.600; 12011.5.

10 37. Plaintiff also submitted the aforementioned published open-source information
11 requesting that the DEFENDANT consider these documents in their re-evaluation of his written
12 scores for the following reasons: 1) these documents are the only documentation in Plaintiff’s
13 possession or that Plaintiff has access to that evidences the DEFENDANT made a clerical and/or
14 arithmetical error. This is due to the DEFENDANT continuously refusing to provide upon lawful
15 requests any relevant records that would show whether the DEFENDANT made a clerical and/or
16 arithmetical error, or if Plaintiff was unfairly graded, and 2) These open-source documents
17 evidences how Plaintiff’s scores are inconsistent with the intended effect of the DEFENDANT’S
18 method of grading and requirements to succeed in the writing section of the Bar Exam, all of
19 which indicates the DEFENDANT likely made a clerical and/or arithmetical error.
20 DEFENDANTS hastily and summarily denied Plaintiff’s requests.

21 38. On or about June 1, 2023, Amy C. Nuñez, Assistant Director of Admission
22 (“NUNEZ”) informed Plaintiff that the DEFENDANT will not consider DEFENDANT’S own
23 admissions published on their website regarding Bar Exam essay and PT answer requirements
24 when determining whether the DEFENDANT made a clerical and/or arithmetical error in scoring
25 Plaintiff’s written scores. NUNEZ further conveyed that due to Plaintiff’s disability and his
26 complaint submitted to the DOJ, he is “*not eligible for a grade reconsideration.*”

27 39. To date, there is an ongoing investigation by the DOJ and REPRESENTATIVE
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1 into the unconstitutional, unethical, and illegal conduct by the DEFENDANT, and its members for
2 violations of applicant's and others' civil rights. Plaintiff intends to remain actively involved in
3 these investigations.

4
5 **FIRST CAUSE OF ACTION**

6 **Defendant Retaliated Against Plaintiff for Asserting his Rights Under ADA**
7 **During July 2021, July 2022, February 2023 Bar Exams**
8 **(Against All Defendants)**

9 40. Plaintiff realleges and incorporates by reference each and every allegation of
10 paragraphs 1 thru 39 of this Complaint, inclusive, as if fully set forth here.

11 41. "No person shall discriminate against any individual because such individual has
12 opposed any act or practice made unlawful by this chapter or because such individual made a
13 charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing
14 under this chapter." (42 U.S.C. §12203(a)).

15 42. "The term "disability" means, with respect to an individual—(A) a physical or
16 mental impairment that substantially limits one or more major life activities of such individual;
17 (B) a record of such an impairment; or (C) being regarded as having such an impairment (as
18 described in paragraph (3))" (42 U.S. Code § 12102).

19 43. Here, Plaintiff is a disabled veteran with a disability rating of 100 percent from the
20 U.S. Department of Veteran Affairs who applied for testing accommodations from the STATE
21 BAR for three Bar Exam administrations, each of which were partially granted. However, Plaintiff
22 did not request testing accommodations for the MBE section of the California Bar Exam. This
23 indicates that: 1) the DEFENDANT admits that Plaintiff is disabled pursuant to 42 U.S. Code §
24 12102; 2) the NCBE did not discriminate against Plaintiff during the administration and grading of
25 the MBE during the three Bar Exams in question on the basis of his disabilities, due to the fact
26 NCBE arguably could not have known of Plaintiff's disabilities; and 3) DEFENDANTS had the
27 opportunity to discriminate against Plaintiff based on his disabilities.

28 44. On or around November 2020, Plaintiff timely applied for the July 2021 California

1 Bar Exam and requested testing accommodations for the writing section. However, Plaintiff did
2 not request testing accommodations for the MBE section of the California Bar Exam. On July 2,
3 2021, which is exactly one day after the deadline to file an accommodations appeal, the
4 DEFENDANT denied Plaintiff's request for accommodations without explanation. The
5 DEFENDANT actions suggest 1) the DEFENDANT gave little to no merit to Plaintiff's request
6 for accommodations; 2) DEFENDANTS disregarded his treating physician's recommendations for
7 testing accommodations; 3) DEFENDANTS substituted their own judgment for that of the
8 professional judgment of Plaintiff's treating physicians; and 4) DEFENDANTS likely
9 discriminated against Plaintiff because he is a 100 percent disabled veteran.

10 45. On or around July 3, 2021, Plaintiff appealed the DEFENDANT'S initial decision
11 to deny Plaintiff's request for testing accommodations several times, which resulted in the same
12 outcome. Simultaneously, Plaintiff filed a complaint with the DOJ and his REPRESENTATIVE to
13 investigate whether the DEFENDANTS had violated Plaintiff's civil rights and discriminated
14 against him based on his disability status.

15 46. On or around July 19, 2021, after being in contact with the DOJ and
16 REPRESENTATIVE regarding Plaintiff's complaint, the DEFENDANT reluctantly granted
17 partial, minimalistic and inadequate accommodations, some of which Plaintiff did not request nor
18 did they aid him, while unjustly denying other material accommodations that are outcome
19 determinative. Plaintiff subsequently wrote a letter addressed to the DEFENDANT for their
20 handling of this matter.

21 47. The act of granting testing accommodations of any kind only after Plaintiff filed
22 formal complaints illustrates the following: 1) It is an admission by the DEFENDANT that
23 Plaintiff has a disabling condition that warrants testing accommodations; 2) DEFENDANTS are
24 attempting to portray that they have "level[ed] the playing field" for Plaintiff when compared to
25 applicants without disabilities; 3) the DEFENDANT was likely attempting to evade scrutiny by
26 the DOJ and REPRESENTATIVE in the ongoing investigations into allegations of ADA and other
27 civil rights violations of bar applicants, and to simply check the box that the COMMITTEE
28 provided "reasonable" accommodations; 4) but for Plaintiff's complaints of civil rights violations,

1 DEFENDANTS would not have voluntarily overturned their initial decision to wrongfully deny
2 Plaintiff's testing accommodations; and 5) DEFENDANT'S clearly made some sort of error,
3 clerical or otherwise in denying Plaintiff's testing accommodations.

4 48. Moreover, DEFENDANTS are attempting to rebut the strong presumption that they
5 were discriminating against Plaintiff based on his protective status as a disabled veteran, and for
6 asserting his rights as a disabled veteran, instead of voluntarily adhering to ADA regulations, to
7 paint the false picture that DEFENDANTS in no way violated plaintiff's rights – likely in
8 anticipation of responding to requests from DOJ and REPRESENTATIVE in their respective
9 investigations or potential future litigation.

10 49. The reality is however, DEFENDANTS have a pattern and practice of
11 discriminating against applicants for similar reasons, as alleged in other cases and complaints filed
12 against the DEFENDANT.

13 50. The fact that DEFENDANT essentially thumbed their nose at Plaintiff and the
14 investigating authorities when Plaintiff filed formal complaints, forcing DEFENDANT against
15 their will to reluctantly “throw Plaintiff a bone” disguised as reasonable testing accommodations
16 to shoo him away, further indicates the DEFENDANT retaliated against Plaintiff because he has
17 opposed an act or practice performed by DEFENDANT, i.e. unjustly denying reasonable
18 accommodations to bar applicants, which is made unlawful by 42 U.S.C. §12203 or because
19 Plaintiff made a charge, testified, assisted, or participated in any manner in an investigation,
20 proceeding, or hearing under 42 U.S.C. §12203.

21 51. Subsequently, Plaintiff applied and sat for the July 2022 and most recently the
22 February 2023 Bar Exam, but did not request testing accommodations for the MBE section of the
23 California Bar Exam. The DEFENDANT reluctantly granted the same partial, minimalistic and
24 inadequate accommodations, some of which Plaintiff did not request nor did they aid him, while
25 unjustly denying other material accommodations that are outcome determinative. This resulted in
26 a failing, *albeit* questionable written score.

27 52. Plaintiff subsequently hired an expert TUTOR employed by BARBRI – one
28

1 of the most reputable bar prep companies in the U.S. who employs former Bar Exam graders with
2 a proven track record of dramatically improving bar applicant's bar exam scores and greatly
3 increasing the probability of the applicant being successful on the exam –solely to assist in
4 improving his essay and PT scores for the upcoming February 2023 Bar Exam.

5 53. The TUTOR advised Plaintiff how to write an “above passing” essay and
6 PT, which Plaintiff precisely implemented said advice to the February 2023 Bar Exam.

7 54. On May 5, 2023, DEFENDANT handed down a failing score, yet again. Plaintiff's
8 essay and PT scores remained below passing, while his Multistate Bar Exam (“MBE”) score was
9 near perfect – scoring in the top 87th percentile – meaning, Plaintiff performed better than 87
10 percent of all examinees taking the same exam nationwide. Alternatively, this ranking means only
11 13 percent of all examinees nationwide performed better than Plaintiff. The MBE is the second
12 half of the California Bar Exam which is a test that is not susceptible to subjective biases like the
13 writing section of the Bar Exam, and is objectively and electronically graded by a separate
14 independent entity.

15 55. This indicates that, when taking into account the DEFENDANT'S expectations and
16 requirements of applicants for the written section of the Bar Exam, as outlined on their website,
17 and GUNDERSEN's expertise as Director of Test Operations for the National Conference of Bar
18 Examiners: 1) Plaintiff's performance on the MBE is a more accurate measure of his legal
19 knowledge and skills; and 2) if Plaintiff's written section of the Bar Exam was “scaled” to his
20 MBE score, his written scores should “indicate about the same level of proficiency” as his MBE
21 scores.

22 56. However, Plaintiff's written scores are inconsistent with the intended and expected
23 effect of “scaling” the written scores to the MBE scores, which indicates the DEFENDANT must
24 have made some sort of error in grading Plaintiff's written answers for the February 2023 Bar
25 Exam.

26 57. The DEFENDANT would have this Court believe that it is entirely logical that an
27 applicant, who 1) is on the cusp of passing the Bar Exam; 2) hires an expert TUTOR from one of
28 the most reputable bar prep companies in the U.S. to improve essay and PT scores; 3) implement

1 the newly acquired skills to improve essay and PT scores to the February 2023 Bar Exam; 4)
 2 miraculously performed better than 87 percent of all MBE examinees nationwide; yet 5) achieve
 3 far below passing scores for the essays and PT. This phenomenon defies all common sense, and is
 4 inconsistent with the intended effect of scaling the written scores to the MBE scores, which all
 5 indicates Plaintiff's essay and PT answers were unfairly scored and/or the DEFENDANT made a
 6 grading error.

7 58. Again, the granting of these minimal accommodations only after Plaintiff filed
 8 formal complaints illustrates the following: 1) It is an admission by the DEFENDANTS that
 9 Plaintiff has a disabling condition that warrants testing accommodations; 2) DEFENDANT are
 10 attempting to portray that they have "level[ed] the playing field" for Plaintiff when compared to
 11 applicants without disabilities; 3) the DEFENDANT was likely attempting to escape scrutiny by
 12 the DOJ and REPRESENTATIVE in the ongoing investigations into allegations of ADA and other
 13 civil rights violations of bar applicants, and to simply check the box that the DEFENDANT
 14 provided "reasonable" accommodations; 4) there is no evidence the DEFENDANT would have
 15 voluntarily overturned their initial decision to wrongfully deny Plaintiff's testing
 16 accommodations; and 5) DEFENDANT clearly made some sort of error, clerical or otherwise in
 17 denying Plaintiff's testing accommodations.

18 59. In doing so, DEFENDANTS likely attempted to proactively rebut the presumption
 19 that they were discriminating against Plaintiff based on his protective status as a disabled veteran,
 20 and for asserting his rights as a disabled veteran, to paint the false picture that DEFENDANTS in
 21 no way violated plaintiff's rights – likely in anticipation of responding to requests from DOJ and
 22 REPRESENTATIVE in their respective investigations or potential future litigation.

23 60. On or around May 18, 2023, DEFENDANTS summarily denied Plaintiff's request
 24 for reconsideration stating, in part, "**...only when an applicant established with documented**
 25 **evidence that a clerical error prevented the examination from being properly graded.**" The
 26 DEFENDANT did not, and continues to refuse to elaborate or clearly state what documented
 27 evidence of a clerical error is required for Plaintiff to submit that would have prevented the
 28 examination from being properly graded. This indicates DEFENDANTS are concealing the truth

1 as to whether Plaintiff was unfairly graded, and that DEFENDANTS are obstructing Plaintiff from
2 obtaining any documentation that would support the notion that DEFENDANTS made some sort
3 of clerical and/or arithmetical error in grading his February 2023 Bar Exam.

4 61. On or around May 19, 2023, Plaintiff submitted a renewed request for
5 reconsideration of grade along with a request for records. Plaintiff reminded DEFENDANTS that
6 he previously requested documentation from the STATE BAR that would suggest whether
7 DEFENDANTS made a clerical or arithmetical error, records that only the DEFENDANTS
8 possesses, has custody of, and/or controls.

9 62. Plaintiff also attached open-sourced documentation from the DEFENDANTS
10 website and an article written by GUNDERSEN, published on NCBE's website, that both suggest
11 that the DEFENDANTS must have made a clerical and/or arithmetical error. DEFENDANTS
12 hastily and summarily denied Plaintiff's requests.

13 63. On or about June 1, 2023, and in response to Plaintiff's renewed request for
14 reconsideration of grade, NUNEZ informed Plaintiff that the DEFENDANTS will not consider
15 DEFENDANTS own admissions published on their website regarding Bar Exam essay and PT
16 answer requirements when determining whether the DEFENDANTS made a clerical and/or
17 arithmetical error in scoring Plaintiff's written scores. NUNEZ further conveyed that due to
18 Plaintiff's disability and his complaint submitted to the DOJ, he is "*not eligible for a grade*
19 *reconsideration*" thus, he is ineligible to practice law in the State of California.

20 64. This further illustrates that 1) DEFENDANTS likely made some sort of error,
21 clerical or otherwise in grading Plaintiff's February 2023 Bar Exam; 2) DEFENDANTS are
22 deliberately concealing the truth as to whether Plaintiff was unfairly graded or DEFENDANTS
23 made a clerical and/or arithmetical error; 3) DEFENDANTS are obstructing Plaintiff from
24 obtaining any documentation that would support the notion that DEFENDANTS made some sort
25 of clerical and/or arithmetical error; 4) the DEFENDANTS likely responded to Plaintiff's requests
26 for reconsideration of grade in a manner consistent with anticipation of responding to requests
27 from DOJ and REPRESENTATIVE in their respective investigations or potential future litigation,
28 rather than providing transparency to the public; 4) the DEFENDANTS is attempting to control

1 the demographics of licensed attorneys in the State of California so as not to “taint the pool” and
2 to limit competition; 5) DEFENDANTS discriminated against Plaintiff based on his protected
3 status as a disabled veteran; and 6) DEFENDANTS retaliated against Plaintiff for asserting his
4 rights as a disabled veteran by requesting testing accommodations and filing complaints with the
5 DOJ and REPRESENTATIVE.

6
7 **SECOND CAUSE OF ACTION**

8 **Defendant Interfered with Plaintiff’s rights; Coerced and/or Intimidated Plaintiff**
9 **(Against All Defendants)**

10 65. Plaintiff realleges and incorporates by reference each and every allegation of
11 paragraphs 1 thru 64 of this Complaint, inclusive, as if fully set forth here.

12 66. “It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual
13 in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on
14 account of his or her having aided or encouraged any other individual in the exercise or enjoyment
15 of, any right granted or protected by this chapter.” (42 U.S.C. §12203(a)).

16 67. Here, Plaintiff is a disabled veteran with a disability rating of 100 percent from the
17 U.S. Department of Veteran Affairs who applied for testing accommodations from the
18 DEFENDANTS for three Bar Exam administrations, each of which were partially granted.
19 However, Plaintiff did not request testing accommodations for the MBE section of the California
20 Bar Exam.

21 68. This indicates that: 1) the DEFENDANT admits that Plaintiff is disabled pursuant
22 to 42 U.S. Code § 12102; 2) the NCBE did not have the opportunity to coerce, intimidate,
23 threaten, or interfere with Plaintiff in the exercise or enjoyment of, or on account of his having
24 exercised or enjoyed, reasonable testing accommodations, which is protected by the ADA during
25 the administration and grading of the MBE during the three Bar Exams in question due to the fact
26 NCBE arguably could not have known of Plaintiff’s disabilities; and 3) DEFENDANTS did have,
27 and continue to have the opportunity to coerce, intimidate, threaten, or interfere with Plaintiff in
28 the exercise or enjoyment of, or on account of his having exercised or enjoyed, reasonable testing

1 accommodations, which is protected by the ADA due to the fact that DEFENDANTS are fully
2 aware of Plaintiff's disclosed disabilities and his formal complaints of civil rights violations.

3 69. On or around November 2020, Plaintiff timely applied for the July 2021 California
4 Bar Exam and requested testing accommodations for the writing section. However, Plaintiff did
5 not request testing accommodations for the MBE section of the California Bar Exam. On July 2,
6 2021, which is exactly one day after the deadline to file an accommodations appeal, the
7 DEFENDANT denied Plaintiff's request for accommodations without explanation.

8 70. The DEFENDANTS actions suggest 1) the DEFENDANT gave little to no merit to
9 Plaintiff's request for accommodations; 2) DEFENDANTS disregarded his treating physician's
10 recommendations for testing accommodations; 3) DEFENDANTS substituted their own judgment
11 for that of the professional judgment of Plaintiff's treating physicians; and 4) DEFENDANTS
12 likely discriminated against Plaintiff because he is a 100 percent disabled veteran 5) the NCBE did
13 not coerce, intimidate, threaten, or interfere with Plaintiff in the exercise or enjoyment of, or on
14 account of his having exercised or enjoyed, reasonable testing accommodations, which is
15 protected by the ADA during the administration and grading of the MBE during the three Bar
16 Exams in question due to the fact Plaintiff did not request accommodations from NCBE; and 6)
17 DEFENDANTS indeed coerced, intimidated, threatened, or interfered with Plaintiff in the exercise
18 or enjoyment of, or on account of his having exercised or enjoyed, reasonable testing
19 accommodations, which is protected by the ADA.

20 71. On or around July 3, 2021, Plaintiff appealed the DEFENDANT'S initial decision
21 to deny Plaintiff's request for testing accommodations several times, which resulted in the same
22 outcome. Simultaneously, Plaintiff filed a complaint with the DOJ and his REPRESENTATIVE to
23 investigate whether the DEFENDANTS had violated Plaintiff's civil rights and discriminated
24 against him based on his disability status.

25 72. DEFENDANTS actions clearly demonstrate DEFENDANTS indeed coerced,
26 intimidated, threatened, or interfered with Plaintiff in the exercise or enjoyment of, or on account
27 of his having exercised or enjoyed, reasonable testing accommodations, which is protected by the
28 ADA.

1 73. On or around July 19, 2021, after being in contact with the DOJ and
2 REPRESENTATIVE regarding Plaintiff's complaint, the DEFENDANT reluctantly granted
3 partial, minimalistic and inadequate accommodations, some of which Plaintiff did not request nor
4 did they aid him, while unjustly denying other material accommodations that are outcome
5 determinative. Subsequently, DEFENDANTS handed Plaintiff below passing scores for the
6 writing sections of the California Bar Exam.

7 74. DEFENDANTS actions suggest DEFENDANTS had and took the opportunity to
8 coerce, intimidate, threaten, or interfere with Plaintiff in the exercise or enjoyment of, or on
9 account of his having exercised or enjoyed, passing the July 2021 California Bar Exam with the
10 requested reasonable testing accommodations after Plaintiff filed complaints of civil rights
11 violations, and practicing law in the State of California, which is protected by the ADA.

12 75. Subsequently, Plaintiff applied and sat for the July 2022 and most recently the
13 February 2023 Bar Exam, but did not request testing accommodations for the MBE section of
14 these exams. The DEFENDANT reluctantly granted the same partial, minimalistic and inadequate
15 accommodations, some of which Plaintiff did not request nor did they aid him, while unjustly
16 denying other material accommodations that are outcome determinative. DEFENDANTS handed
17 Plaintiff a failing, *albeit* questionable score.

18 76. DEFENDANTS actions suggest DEFENDANTS had and took the opportunity to
19 coerce, intimidate, threaten, or interfere with Plaintiff in the exercise or enjoyment of, or on
20 account of his having exercised or enjoyed, passing the July 2022 California Bar Exam with the
21 requested reasonable testing accommodations after Plaintiff filed complaints of civil rights
22 violations, and practicing law in the State of California, which is protected by the ADA.

23 77. Plaintiff subsequently hired an expert TUTOR employed by BARBRI
24 solely to assist in improving his essay and PT scores for the upcoming February 2023 Bar Exam.

25 78. The TUTOR advised Plaintiff how to write an "above passing" essay and
26 PT, which Plaintiff precisely implemented said advice to the February 2023 Bar Exam.

27 79. On May 5, 2023, DEFENDANT handed down a failing score, yet again. Plaintiff's
28

essay and PT scores remained below passing, while his Multistate Bar Exam (“MBE”) score was near perfect – scoring in the top 87th percentile – meaning, Plaintiff performed better than 87 percent of all examinees taking the same exam nationwide. Alternatively, this ranking means only 13 percent of all examinees nationwide performed better than Plaintiff. The MBE is the second half of the California Bar Exam which is a test that is not susceptible to subjective biases like the writing section of the Bar Exam, and is objectively and electronically graded by a separate independent entity.

80. This indicates that, when taking into account the DEFENDANT’S expectations and requirements of applicants for the written section of the Bar Exam, as outlined on their website, and GUNDERSEN’s expertise as Director of Test Operations for the National Conference of Bar Examiners: 1) Plaintiff’s performance on the MBE is a more accurate measure of his legal knowledge and skills; 2) if Plaintiff’s written section of the Bar Exam was “scaled” to his MBE score, his written scores should “indicate about the same level of proficiency” as his MBE scores; 3) The NCBE did not have, nor took the opportunity to coerce, intimidate, threaten, or interfere with Plaintiff in the exercise or enjoyment of, or on account of his having exercised or enjoyed, reasonable testing accommodations and filing complaints for civil rights violations, which is protected by the ADA during the administration and grading of the MBE during the three Bar Exams in question due to the fact NCBE arguably could not have known of Plaintiff’s disabilities; and 3) DEFENDANTS had and took the opportunity to coerce, intimidate, threaten, or interfere with Plaintiff in the exercise or enjoyment of, or on account of his having exercised or enjoyed, passing the February 2023 California Bar Exam with the requested reasonable testing accommodations after Plaintiff filed complaints of civil rights violations, and practicing law in the State of California, which is protected by the ADA.

81. On or around May 18, 2023, DEFENDANTS summarily denied Plaintiff’s request for reconsideration stating, in part, “...*only when an applicant established with documented evidence that a clerical error prevented the examination from being properly graded.*” The DEFENDANT did not, and continues to refuse to elaborate or clearly state what documented evidence of a clerical error is required for Plaintiff to submit that would have prevented the

1 examination from being properly graded. This indicates: 1) DEFENDANTS are concealing the
2 truth as to whether Plaintiff was unfairly graded; 2) that DEFENDANTS are obstructing Plaintiff
3 from obtaining any documentation that would support the notion that DEFENDANTS made some
4 sort of error – clerical, arithmetical, or otherwise – in grading his February 2023 Bar Exam; 3)
5 DEFENDANTS had and took the opportunity to coerce, intimidate, threaten, or interfere with
6 Plaintiff in the exercise or enjoyment of, or on account of his having exercised or enjoyed,
7 obtaining records pertaining to the determination of his February 2023 Bar Exam scores that were
8 lawfully requested.

9 82. On or around May 19, 2023, Plaintiff submitted a renewed request for
10 reconsideration of grade along with a request for records. Plaintiff reminded DEFENDANTS that
11 he previously requested documentation from the STATE BAR that would suggest whether
12 DEFENDANTS made a clerical or arithmetical error, records that only the DEFENDANTS
13 possesses, has custody of, and/or controls.

14 83. Plaintiff also attached open-sourced documentation published on the
15 DEFENDANTS website and an article written by GUNDERSEN, published on NCBE's website,
16 that both suggest that the DEFENDANTS must have made a clerical and/or arithmetical error.
17 DEFENDANTS hastily and summarily denied Plaintiff's requests.

18 84. This indicates: 1) DEFENDANTS are concealing the truth as to whether Plaintiff
19 was unfairly graded; 2) that DEFENDANTS are obstructing Plaintiff from obtaining any
20 documentation that would support the notion that DEFENDANTS made some sort of error –
21 clerical, arithmetical, or otherwise – in grading his February 2023 Bar Exam; 3) DEFENDANTS
22 had and took the opportunity to coerce, intimidate, threaten, or interfere with Plaintiff in the
23 exercise or enjoyment of, or on account of his having exercised or enjoyed, obtaining records
24 pertaining to the determination of his February 2023 Bar Exam scores that were lawfully
25 requested, and practicing law in the State of California, which is protected by the ADA.

26 85. On or about June 1, 2023, and in response to Plaintiff's renew request for
27 reconsideration of grade, NUNEZ informed Plaintiff that the DEFENDANTS will not consider
28 their own admissions published on their website regarding Bar Exam essay and PT answer

requirements when determining whether the DEFENDANTS made a clerical and/or arithmetical error in scoring Plaintiff's written scores. NUNEZ further conveyed that due to Plaintiff's disability and his complaint submitted to the DOJ, he is "*not eligible for a grade reconsideration*" thus, he is ineligible to practice law in the State of California.

86. This further illustrates that 1) DEFENDANTS likely made some sort of error, clerical or otherwise in grading Plaintiff's February 2023 Bar Exam; 2) DEFENDANTS are deliberately concealing the truth as to whether Plaintiff was unfairly graded or DEFENDANTS made a clerical and/or arithmetical error; 3) DEFENDANTS are obstructing Plaintiff from obtaining any documentation that would support the notion that DEFENDANTS made some sort of clerical and/or arithmetical error; 4) the DEFENDANTS likely responded to Plaintiff's requests for reconsideration of grade in a manner consistent with anticipation of responding to requests from DOJ and REPRESENTATIVE in their respective investigations or potential future litigation, rather than providing transparency to the public; 4) the DEFENDANTS is attempting to control the demographics of licensed attorneys in the State of California so as not to "taint the pool" and to limit competition; 5) DEFENDANTS discriminated against Plaintiff based on his protected status as a disabled veteran; and 6) DEFENDANTS retaliated against Plaintiff for asserting his rights as a disabled veteran by requesting testing accommodations and filing complaints with the DOJ and REPRESENTATIVE; and 7) DEFENDANTS had and took the opportunity to coerce, intimidate, threaten, or interfere with Plaintiff in the exercise or enjoyment of, or on account of his having exercised or enjoyed, obtaining records pertaining to the determination of his February 2023 Bar Exam scores that were lawfully requested, passing the February 2023 California Bar Exam, and practicing law in the State of California.

THIRD CAUSE OF ACTION
Defendant Violated Plaintiff's Civil Rights Under UNRUH
(Against All Defendants)

87. Plaintiff realleges and incorporates by reference each and every allegation of paragraphs 1 thru 86 of this Complaint, inclusive, as if fully set forth here.

88. California's Unruh Act, Cal. Civ. Code § 51(f), states that "a violation of the

right of any individual under the Americans with Disabilities Act of 1990 (Public Law 101-336) shall also constitute a violation of this section.” A plaintiff is entitled to recover actual damages and an amount up to three times the actual damages for each violation of the Unruh Act, “but in no case less than \$4,000...” for each and every offense (Cal. Civ. Code § 52(a); *Munson v. Del Taco, Inc.* (2009) 46 Cal.4th 661, 667.).

89. Here, Plaintiff alleged herein that DEFENDANTS, and each of them, have violated Plaintiff’s rights afforded under the ADAA, which indicates each of the DEFENDANTS have violated California’s Unruh Act and Plaintiff is entitled to recover actual damages and an amount up to three times the actual damages for each violation of the Unruh Act, “but in no case less than \$4,000 treble damages for each violation.”

FOURTH CAUSE OF ACTION

Defendant Defamed Plaintiff by Falsely Insinuating:

Plaintiff did not Pass the Bar Exam;

Lacks the Requisite Legal Knowledge and Skill to Practice Law.

(Against All Defendants)

90. Plaintiff incorporates by reference into this cause of action each allegation of paragraphs 1 through 89.

91. On or about May 5, 2023, Defendant(s) published the February 2023 Bar Exam “pass list” naming all individuals who passed the February 2023 Bar Exam. Plaintiff was not listed. Simultaneously, Defendant’s submitted to Plaintiff a letter stating that Plaintiff was unsuccessful on this February Bar Exam (“MEMO”).

92. DEFENDANT’S assertion that the information contained in the pass list was accurate, is false as it pertains to the Plaintiff.

93. The implication that Plaintiff is not eligible or worthy to practice law in the State of California because DEFENDANTS wrongfully allege Plaintiff did not pass the February 2023 Bar Exam, is libelous on its face. It clearly exposes Plaintiff to hatred, contempt, ridicule, and obloquy because it impedes or prevents Plaintiff from practicing law in the State of California. The pass list was seen and read by virtually the entire world.

94. As a proximate result of the above-described publication, Plaintiff has suffered loss

1 of his reputation, shame, mortification, and embarrassment all to his general damage.

2 95. The above-described publication was published by the DEFENDANTS with malice
3 and/or oppression and/or fraud in that DEFENDANT was aware the pass list contained inaccurate
4 information and refused to correct the inaccuracies and thus plaintiff seeks an award of punitive
5 damages.

6 **PRAYER**

7 WHEREFORE, Plaintiff prays for judgment against the Defendants, and each of them, as
8 follows:

9 I. A preliminary injunction that shall:

10 A. enjoin and restrain the above-named defendants, and their officers, agents,
11 employees, representatives, and all persons acting in concert or participating
12 with them; from engaging in or performing, directly or indirectly, any and all of
13 the following acts:

- 14 i. Preventing State Bar applicants who request testing accommodations
15 from unjustly being discriminated against based on their alleged
16 disability.
- 17 ii. Denying applicant's testing accommodations based on the
18 DEFENDANT's "dissatisfaction" of the Bar applicant's medical team's
19 professional assessment.
- 20 iii. Substituting the DEFENDANT'S judgment for that of the medical
21 professionals that treat the Bar applicants, including Plaintiff, whose
22 recommendations are accompanied with the testing accommodations
23 application for the California Bar Exam.
- 24 iv. Prevent Defendants from continuing to discriminate and retaliate against
25 Plaintiff by unjustly denying his admission to the Bar because he is a
26 disabled veteran, and for asserting his rights as a disabled veteran by
27 filing a complaint with the DOJ- an ongoing investigation.
- 28

- 1 B. Order DEFENDANTS to grant Plaintiff a Provisional License to duly practice
2 law in the State of California, until final adjudication, resolution, and
3 investigation of all matters and issues alleged herein.
- 4 C. Order DEFENDANTS to disclose to Plaintiff all relevant public records pursuant
5 to Gov. Code §§ 7920.00 et seq. pertaining to the administration and grading of
6 Plaintiff's previous Bar Exams, excluding those records exempt from disclosure
7 under Senate Bill 387; Bus. & Prof. Code §§ 6086.1(b); 6060.2; 6168; 6232(d);
8 6234(a); 6200(h); 6060.25; and/or Gov. Code §§ 7923.600; 7929.605; 7923.600;
9 12011.5 – accompanied by an exemption log detailing why certain records are
10 exempt from disclosure.
- 11 D. Order the Office of U.S. Attorney General to thoroughly investigate the claims
12 alleged by Plaintiff pursuant to 42 U.S.C. §12188, and provide a detailed report
13 and recommendations of their findings, including but not limited to:
- 14 i. Investigate each of Plaintiff's past Bar Exam answers, results, and all
15 procedures followed by Defendant in rendering a final written score for
16 the Bar Exam, to provide a determination as to whether Defendant
17 erroneously gave Plaintiff below passing scores and whether Plaintiff was
18 graded fairly or based on biased subjective standard.
- 19 ii. investigate and evaluate the Committee's admissions standards and
20 practices, as well as their bar exam grading practices, to assess whether
21 the Committee engages in unconstitutional, unethical, or illegal conduct
22 that disparately affects certain Bar applicants.
- 23 E. The proposed preliminary injunctive relief is necessary because:
- 24 i. If Defendants are not enjoined to be subjected to the strict monitoring of
25 this Court and the Office of the U.S. Attorney General, and immediately
26 grant Plaintiff a provisional license to practice law, the DEFENDANT
27 will continue to deny Plaintiff, and other similarly situated individuals'
28

admission to the Bar, regardless if they produced objectively flawless Bar exam essay and PT answers.

ii. If the Court does not order the Office of the U.S. Attorney General to investigate the unlawful practices of Defendant with respect to Bar applicants, they will continue to fly under the radar while violating the civil liberties of Plaintiff and other applicants/future lawyers who intend to root out corruption and discriminatory practices of those who prey upon vulnerable individuals such as Plaintiff.

F. Monetary damages would be inadequate to pay for the unjust denial of the right to practice law, represent the voiceless, and bring about the change necessary to improve our society through legal representation.

II. Damages pursuant to Ca. Civ. Code § 51(f).

III. All Remedies and Procedures available under 42 U.S. Code §§ 12203; 12117; 12133; 12188.

IV. General Damages in a sum according to proof.

V. Actual damages in a sum according to proof.

VI. Punitive Damages.

VII. For costs of suit incurred herein, including reasonable attorney's fees; and

VIII. For such other and further relief as the court deems proper.

Dated: June 7, 2023

TERRENCE BREWER

By: 

TERRENCE BREWER, J.D.

Plaintiff, Pro se

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Terrence Brewer, J.D., Pro Se

(b) County of Residence of First Listed Plaintiff **Contra Costa**

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

The State Bar of California, Committee of Bar Examiners, and Agents

County of Residence of First Listed Defendant **San Francisco**

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------------------------------|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability		INTELLECTUAL PROPERTY RIGHTS	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine		<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	LABOR	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	SOCIAL SECURITY	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 500 Securities/Commodities/Exchange
		<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights		FEDERAL TAX SUITS	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	IMMIGRATION	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 245 Tort Product Liability	<input checked="" type="checkbox"/> 445 Amer. w/Disabilities - Employment			<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other			
	<input type="checkbox"/> 448 Education			
		PRISONER PETITIONS		
		Habeas Corpus:		
		<input type="checkbox"/> 463 Alien Detainee		
		<input type="checkbox"/> 510 Motions to Vacate Sentence		
		<input type="checkbox"/> 530 General		
		<input type="checkbox"/> 535 Death Penalty		
		Other:		
		<input type="checkbox"/> 540 Mandamus & Other		
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Americans With Disabilities Act (ADA), 42 U.S.C. §§ 12101 et seq.; California's UNRUH Act, Cal. Civ. Code § 51(f).

Brief description of cause:

Defendant Retaliated and discriminated against Plaintiff because he is a disabled person and asserted his rights in connection to the CA Bar Exam

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.DEMAND \$
According to Proof

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

June 6, 2023

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE